The Corporation Journal

Issued by

The Corporation Trust Company

New York, 37 Wall Street

Chicago, 112 W. Adams Street
Pittsburgh, 1202 Oliver Bldg.
Philadelphia, 1428 Land Title Bldg.
Albany, 158 State Street
Washington, D. C., 501 Colorado Bldg.
Jersey City, 15 Exchange Place
Portland, Me., 281 St. John Street
St. Louis, Federal Reserve Bank Bldg.

Corporation Registration Company
Boston, 511 Exchange Bldg.

Corporation Trust Co. of America
Wilmington, 394 duPont Bldg.

No. 59. Vol. 2. *May 31, 1916* *Pages 181-196*

DOMESTIC CORPORATIONS.

ALABAMA.

DISSOLUTION OF A SOLVENT CORPORATION will not be decreed by a court of equity at the instance of minority stockholders merely because it is alleged that the business is a failure and that its further prosecution will end in inevitable ruin. "On the contrary, so long as the corporation is a going concern; so long as it possesses the means and ability to pursue one or more of its primary purposes or lines of business; and so long as the conditions exhibited do not demonstrate to a moral certainty that its continuation must by inevitable necessity result in serious loss in the near future, and in complete ruin sooner or later—a court of equity will not and should not deprive the majority stockholders of their right to carry on their business under their chosen management, however speculative and uncertain its prospects may seem to a disapproving and dissentient minority." Phinizy v. Anniston City Land Co., 71 So. 469.

ARIZONA.

PROMISSORY NOTES GIVEN IN PAYMENT OF SUBSCRIPTION TO STOCK OF AN ARIZONA CORPORATION are valid. A corporation is not bound to issue a certificate until the note is paid, and until it is issued there is no representation to the public that it has been paid for, so as to violate prohibitions against "the issue of stock" except for money or money's worth. The decision in Cattlemen's Trust Company v. Turner, 182 S. W. 438, Corporation Journal page 147, is noted and approved. Commonwealth Bonding & Casualty Ins. Co. v. Hill, 184 S. W. 247.

CALIFORNIA.

A RECEIVER AFTER DISSOLUTION of a corporation may only be appointed by the court having jurisdiction at its place of business or where it did business at the time of dissolution. Henderson v. Palmer Union Oil Co. 156 Pac. 65.

ILLINOIS.

SERVICES AS PAYMENT FOR STOCK OF ILLINOIS CORPORATION. Aiding an Illinois corporation to procure temporary loans, lending it credit by indorsing its paper until money could be realized by a sale of its bonds, do not constitute payment for $14,900 in par value of its stock. Schroeder v. Edwards, 184 S. W. 108.

A PARTY TO THE TRANSACTION BY WHICH STOCK IN AN ILLINOIS CORPORATION is issued for services cannot be heard to deny that the stock is not thus paid in full. Schroeder v. Edwards, 184 S. W. 108.

MICHIGAN.

A RECEIVER WILL NOT BE APPOINTED AT THE INSTANCE OF A STOCKHOLDER merely because he is excluded from the management of a corporation. Murray v. Keeley Institute, 157 N. W. 87.

MINNESOTA.

DIRECTORS MAY LOAN MONEY TO OR PLEDGE THEIR CREDIT for the corporation and take a mortgage from the corporation as security, provided that they act fairly and in good faith. When it is affirmatively shown that they have so acted the mortgage taken will be upheld, although authorized by directors a majority of whom were personally interested in the transaction. Minnesota Loan & Trust Co. v. Peteler Car Co., 156 N. W. 255.

PAYMENT OF LESS THAN PAR for stock, pursuant to an agreement with the corporation that it shall be taken as full satisfaction renders it non-assessable by the corporation. A receiver or trustee in bankruptcy of a corporation cannot maintain an action against an original holder of nonassessible stock issued for less than par to recover for the benefit of creditors the unpaid balance on the stock. It would appear that if there is any liability thereon, it accrues directly to the creditors. Courtney v. Georger, 228 Fed. 859.

A CORPORATION IS LIABLE FOR SLANDER. The same rule is applicable in respect to slander as applies to libel and other torts committed by agents and officers of corporations in the course of their employment. Roemer v. Jacob Schmidt Brewing Co., 157 N. W. 640.

MISSISSIPPI.

A PROMISSORY NOTE EXECUTED BY THE PRESIDENT IS PRIMA FACIE AUTHORIZED by the corporation. The Court finds the decisions on this point to be in irreconcilable conflict, but concludes, that the salutary rule is to place the burden of proving lack of authority upon the corporation. It says,

in part: "Nearly all the big business and a large part of the small business is now conducted by corporations, and if it be the law that persons dealing with the president of a corporation about matters of business clearly within the powers of the corporation to transact must deal at arm's length, and demand that the president exhibit his credentials before entering into contracts with him, it seems to us that not only the corporation, but also those dealing with corporations, will be seriously hampered. It is not our purpose to hold that a president of a corporation has the inherent power to bind the corporation, but we do hold that the fact that the president of a corporation has executed a contract for his corporation, is prima facie evidence that the president had the authority to bind the corporation." Moyse Real Estate Co. v. First Nat. Bank of Commerce, 70 So. 821. Compare Westchester Mortg. Co. v. Thomas B. McIntire, 157 N. Y. Supp. 725, reported in this number of the Corporation Journal at page 184.

MISSOURI.

SERVICE OF PROCESS upon the president of a Missouri corporation while residing in California by a deputy sheriff of Los Angeles County, is ineffectual to give jurisdiction in an action against the corporation in the Missouri Courts, though it is shown by affidavit that it "is a corporation having no office in the State of Missouri nor any officer in the State of Missouri upon whom service of process may be had." John McMenamy Inv. & Real Estate Co. v. Stilwell C. Co., 184 S. W. 467.

COSTS OF RECEIVERSHIP. The Court has no authority of its own motion to order an audit of a corporation's books in a suit for a receivership brought on the ground of the misconduct of its officers. The cost of such an audit is not recoverable against the corporation. State v. Kimmel 183 S. W. 651 (The report of this case is reprinted from last month's Journal page 163, so as to insert the words "of its own motion," inadvertently omitted therefrom).

NEW YORK.

FAILURE TO COMPLY WITH SECTION 13 OF THE STOCK CORPORATION LAW, requiring a corporation changing its principal office and place of business from the city, town or county named in its certificate of incorporation to secure authority therefor from its stockholders and execute and file certain forms, does not justify a breach of contract with it. Such a corporation is entitled to an injunction against one who, contrary to an express agreement, sells medicines at its old location, the formulae for which had been turned over to it upon its incorporation. Kern Horse Remedy Co. v. Selner, 158 N. Y. Supp. 192.

PERSONAL LIABILITY OF DIRECTORS. A corporation transferred all its assets without notice to creditors. The fact that at that time it set aside a trust fund for their payment is no defense to an action by one of the creditors seeking to hold the directors personally liable. "Directors who sell and transfer the assets of their company without taking the steps provided by the General Corporation Law and the Stock Corporation Law do so at their peril." Shalek v. Jetter, 171 N. Y. App. Div. 364.

AUTHORITY OF AN OFFICER TO EXECUTE A PROMISSORY NOTE for the corporation must be conferred by specific resolutions of the directors or by the by-laws. One cannot recover on a corporate note executed by its president and not under the corporate seal, without showing the power of the president to execute and deliver it. Westchester Mortg. Co. v. Thomas B. McIntire, 157 N. Y. Supp. 725.

A CORPORATION IS LIABLE FOR SLANDER. The earlier case of Eichner v. Bowery Bank, 24 App. Div. 63 to the opposite effect, is overruled. Kharas v. Collier, Inc., 171 N. Y. App. Div. 388.

OHIO.

AN ASSIGNMENT FOR BENEFIT OF CREDITORS, the purpose of which is really not to protect creditors but to coerce stockholders to surrender corporate bonds, is void. Collins v. Williamson, 229 Fed. 59.

ONTARIO.

BY ALLOWING HIS NAME TO REMAIN ON THE STOCK REGISTER with respect to 199 shares, by qualifying as a director and vice-president and by voting the shares, one renders himself liable for the unpaid balance thereon. An order directing the removal of his name from the register will be refused. Re Gramm Motor Truck Co. of Canada, 26 D. L. R. 557.

AN OFFICER IS PERSONALLY LIABLE where he says with respect to work of the company: "You advance this money and I will return it to you." Such an agreement is not within the Statute of Frauds, as it is an original undertaking and not a promise to answer the debt of another. Brown v. Coleman Development Co., 26 D. L. R. 438.

OREGON.

THE PRESIDENT HAS NO AUTHORITY TO PAY A BILL of the corporation in the absence of a by-law, special order of the board of directors or usage authorizing him to bind the corporation by contracts. "The mere fact that a man is president of a corporation does not give him any power to bind the corporation in any way. His powers are clearly defined in Sections 6691 and 6693, L. O. L., of which the former provides that he shall preside at meetings of the directors and perform such other special duties as the directors may authorize, and the latter section empowers him to act as inspector of elections." Wilson v. Investment Co., 156 Pac. 249.

PERSONAL LIABILITY ON A CONTRACT signed "Jno. P. Sharkey Co. per Jno. P. Sharkey, Pres." is imposed where there was no such corporation at that time; though it was contended by the defendant that the contract was executed in behalf of a corporation of another name, which it was then contemplated would be legally changed to Jno. P. Sharkey Company and which was subsequently so changed. Gilbert v. Sharkey, 156 Pac. 789.

PENNSYLVANIA.

A CONTRACT MADE BY AN OFFICER of a Pennsylvania corporation in pursuance of a resolution of the Board of Directors, which was in conflict with a by-law of the corporation as to the authority of such officer was held to be binding upon the corporation where the evidence in the case showed that the benefits of the contract sued on were accepted by the corporation with full knowledge of the president and other officers without objection. Campbell v. Manatawny Bessemere Ore Company, 62 Pennsylvania Superior Court, 57.

CONTRACTS BETWEEN CORPORATIONS HAVING INTERLOCKING DIRECTORS are not necessarily void in the State of Pennsylvania. It has long been recognized in this State that the interests of corporations may sometimes be so interwoven that it may be desirable to have joint representatives in the respective managements of two or more corporations. The action of interlocking directors, however, must be open and free from any suspicion of secret dealing in favor of one principal while acting as representative of the other, and such action is always open to investigation and utmost good faith must not only exist but must be made manifest. South Side Trust Company v. Washington Tin Plate Co., 252 Pa. 237.

SOUTH CAROLINA.

VOID INCORPORATION AND INDIVIDUAL LIABILITY. After petition for a commission to organize a corporation, books of subscription were opened, and subscriptions for twenty-five out of a total authorized issue of one hundred shares were taken. A charter was not issued until March, 1913. The company did not wait for the completion of the organization but started to do business in July, 1912. For obligations assumed during 1912 the incorporators are personally liable under Section 2834 of the Civil Code, providing the method of incorporation which must be complied with. The Court says: "The provisions of a statute about how a corporation shall be formed mean something. They may not be totally disregarded, nor ignored in substance. They were enacted both for the protection of members of the corporation and for the protection of the crediting public." The omissions in this case were not mere "irregularities," which the act of 1896 (22 St. 92) states shall not vitiate incorporation except in a special proceeding by the state therefor. Meyer v. Brunson, 88 S. E. 359.

TENNESSEE.

A CORPORATE MORTGAGE given to secure the bond issue of a corporation engaged in the business of the manufacture and sale of pig iron and operating blast furnaces was not invalid because the mortgagor was to have the possession and use of its plant and equipment until default. Such a reservation is not inconsistent with the trust but in furtherance of it. Morgan Bros. v. Dayton Coal & Iron Co. 183 S. W. 1019.

UTAH.

VALIDITY OF ORGANIZATION. Where there was a ***bona fide*** attempt to create a corporation and an assumption and exercise of corporate functions sufficient to constitute a corporation ***de facto***, its right to hold real estate cannot be questioned by the United States Government, in the absence of a direct proceeding by the State. Utah Light & Traction Co. v. United States, 230 Fed. 343.

WASHINGTON.

AUTHORITY OF GENERAL MANAGER. A general manager without any limitations or restrictions as to his express authority has implied authority to do anything that the corporation could lawfully do in the general scope of its business. Kitzmiller v. Pacific Coast & Norway Packing Co., 156 Pac. 17.

WEST VIRGINIA.

A BY-LAW PURPORTING TO MAKE STOCKHOLDERS LIABLE for assessments upon shares issued as fully paid is invalid. "The subscription to the capital stock was the measure of the stockholders' liability; and it was discharged by payment." Roush v. Longdale Independent Telephone Co., 88 S. E. 623.

FOREIGN CORPORATIONS.

CANADA.

"THE COMPANY CASES" is the collective title applied to the judgments of the Judicial Committee of the Privy Council recently rendered in The Bonanza Creek Gold Mining Co. v. The King, 26 D. L. R. 273, (Decision below, 21 D. L. R. 123, Corporation Journal, page 32); Attorney-General of Ontario v. Attorney-General for Canada, 26 D. L. R. 293, (Decision below, 15 D. L. R. 332, Corporation Trust Company Journal No. 44); and Attorney-General for Canada v. Attorney-General of Alberta and Attorney-General of British Columbia, 26 D. L. R. 288, (the Insurance Reference). In an exhaustive annotation (26 D. L. R. 295-313) it is stated that these decisions mark the culmination of a constitutional contest, extending over more than a generation, between the provinces and the Dominion, over the incorporation and control of companies. To this group the annotator adds the case of John Deere Plow Company, Limited, v. Wharton (1915) A. C. 330, 18 D. L. R. 353 and concludes that the specific points covered in the four judgments appears to be:

"1. A company incorporated and authorized under Dominion legislation to carry on insurance or trade throughout Canada has not merely the capacity but the right to carry on such business without further authority from any provincial legislature, and provincial legislation requiring a license of such a company by way of determining or regulating its corporate status is ULTRA VIRES.

2. It is possible by letters patent under provincial legislation to incorporate a company with the capacity, as distinguished from the right, to receive from jurisdictions outside the province corporate rights and privileges.

3. The Dominion Insurance Act in its present form is ULTRA VIRES of the Parliament of Canada in so far as it purports to require a license of an insurance company incorporated by legislation of a province before such company can receive from another province the right to do an insurance business in such other province."

The annotator also concludes that in the light of an expression used in the judgment in the John Deere Plow Co. case and of the distinction between capacity and right established in the Bonanza Creek case the Extra-Provincial Licensing and Registration Acts of Ontario, New Brunswick, Nova Scotia, Prince Edward Island, Manitoba and Saskatchewan must be judged to be invalid along with the British Columbia Act and in so far as they deal with corporate status, capacity and rights. The Acts of Quebec and Alberta expressly except Dominion Companies.

In the Insurance Reference Case, Viscount Haldane says: "The second question is, in substance, whether the Dominion Parliament has jursidiction to require a foreign company to take out a license from the Dominion Minister, even in a case where the company desires to carry on its business within the limits of a single province. To this question their Lordships' reply is that in such a case it would be within the power of the Parliament of Canada, by properly framed legislation, to impose such a restriction. It appears to them that such a power is given by the heads in sec. 91, which refers to the regulation of trade and commerce and to aliens. This question also is, therefore, answered in the affirmative."

MICHIGAN.

INSTALLATION OF MACHINERY SOLD IN INTERSTATE COMMERCE. A New York corporation, without securing authority to do business in the State, sold, delivered and installed six superheaters in a power plant at Lansing. In an action to recover their price at $1,125 per heater, a new trial is ordered, so as to permit the plaintiff to show that the installing of the superheaters was "such an essential requisite to the sale of them that it can be said that but for the installation by the plaintiff, it could make no sale." It would appear that if this cannot be proven, the plaintiff is not entitled to recover. The decision in Browning v. Waycross, 233 U. S. 16, wherein it was held that the sale and erection of lightning rods is intrastate commerce, is followed. In its recital of facts in the instant case the Court says that the superheaters "were fully manufactured and made ready for shipment at the plaintiff's manufacturing plant at Dansville, N. Y., and were shipped in a knocked-down condition to the defendant's plant at Lansing, ready to be put together and installed. Plaintiff set up the superheaters in the two new boilers as they were being erected. In other words, the superheaters in these boilers were assembled by plaintiff and connected up before the boilers were bricked up. No brickwork was to be done by the plaintiff on these boilers, it being necessary for it merely to install its superheaters as soon as the steel work of the boilers was completed. In order, however, to install the superheaters in the six old boilers it was necessary for plaintiff to tear out the brickwork in front, assemble and connect

up in their proper places the pipes that made up the superheaters, insert the doors at the proper place, tie the pipes so as to hold them in place securely, and then brick the boilers up again." There was no evidence before the court as to whether this work could be done by the purchasers through local workmen, and for that reason the case is sent back for a new trial. Power Specialty Co. v. Michigan Power Co., 157 N. W. 408.

TENNESSEE.

THE MORTGAGE AND DEBENTURES of a foreign corporation are not void, because the mortgagor corporation has not complied with the foreign corporation laws. The question is settled by analogy to Louisville Property Company v. Mayor and City Council of Nashville, 114 Tenn. 213, 84 S. W. 810, in which it was held that where a foreign corporation acquires property within the state of Tennessee without complying with the statutory requirements, such acquisition is valid as against every one save the state. Morgan Bros. v. Dayton Coal & Iron Co., 183 S. W. 1019.

WISCONSIN.

REMOVAL OF CAUSES TO FEDERAL COURTS. Sec. 1770f, added to the statutes of 1898 by an act of the Legislature of June 20, 1905, makes it the duty of the secretary of state to revoke the license of any foreign corporation which removes or makes application to remove into any district or circuit court of the United States any action or proceeding brought against it by a citizen of the state upon any claim arising in the state. This law is held to be unconstitutional by the United States Supreme Court in an opinion handed down on May 23, affirming the decision of the lower court reported in 216 Fed. 199. Donald v. The Philadelphia & Reading Coal & Iron Co. and Frear v. Western Union Telegraph Co. (Nos. 253 and 254 Oct. Term, 1915.)

TAXATION.

DELAWARE.

ANNUAL FRANCHISE TAXES should be paid on or before July 1 in order to escape the imposition of interest at the rate of one per centum for each month until paid. Tax bills, sheets for use in auditing the tax and letters of instructions have been forwarded by our Delaware office to corporations represented by us in that state.

DOMINION OF CANADA.

THE EXTRAORDINARY TAX ON PROFITS referred to on page 131 of of the Corporation Journal became a law on May 18, 1916.

MARYLAND.

NEW SUBJECTS FOR ANNUAL LICENSE TAX, provided for in Chapter 704, Laws of 1916, include Detective Agencies and Agents, Moving Picture Shows and Carnivals, Garages, Cash Registers and Adding Machines, Typewriting Machines, Commercial, Mercantile and Mutual Protective Agencies, Intelligence Offices and Employment Agencies, Laundries, Junk Dealers, Trading Stamp Companies, Wholesale Dealers in Farm Machinery, Soda Water Fountains, Livery Stables, Bowling Saloons, Storage Warehouses, Check Rooms, Cleaning, Dyeing and Pressing Companies, Shoe Shining Parlors and Hat Cleaning Establishments, Restaurants or Eating Places, Plumbers and Gas Fitters, Construction Firms or Companies, Non-resident Wholesale Tobacco Dealers and Non-resident Wholesale Liquor Dealers. The license tax varies according to the kind of business and in some cases depends upon whether the corporation is domestic or foreign. The tax is payable in the town or county where the business is carried on. Besides making these additions, it repeals and re-enacts with amendments certain sections of Article 56 of the Annotated Code of Maryland. The new law takes effect on June 1, 1916.

MASSACHUSETTS.

AN INCOME TAX LAW has been enacted by the 1916 Legislature (Chap. 269 Laws of 1916) and was approved by the Governor on May 26, 1916. The law took effect upon its passage, but the first tax levied will be in the year 1917. Every individual inhabitant of the Commonwealth, including every partnership, association or trust, whose annual income from all sources exceeds two thousand dollars is required to make a return on or before the first day of March in each year, with reference to income received during the calendar year ending on the preceding thirty-first day of December. The rate of tax is six per cent. upon interest from bonds, notes, etc., and from certain dividends of corporations, partnerships, association or trusts. Income from annuities, and the excess of two thousand dollars derived from professions, employments, trade or business are taxed at one and one-half per cent. The excess of gains over losses received from purchases or sales of intangible personal property is taxed at the rate of three per cent. Various exceptions, exemptions and deductions are provided for. The penalties include an additional tax of five dollars for every day of default in making return and a fine of not less than one hundred dollars nor more than ten thousand dollars, or imprisonment for not more than one year, or both, such fine and imprisonment for filing a fraudulent return or for filing an incorrect or insufficient return after notice of delinquency and failure to file return without reasonable excuse within twenty days after receiving such notice. Information, instead of deduction, at the source is a feature of the act.

NEW YORK.

SUPPLEMENTAL MORTGAGE NOT SUBJECT TO RECORDING TAX. An instrument expressly recited that it was a "supplemental mortgage or deed of trust" and contained preambles referring to the original mortgage and showing

that the bonds secured thereby had been issued and that the mortgagor was desirous of procuring a modification of the terms of the mortgage to give it additional rights, privileges and powers. It is a supplemental mortgage within the purview of Section 255 of the Tax Law, according to the Appellate Division, First Department, and is therefore exempt from the recording tax. The trustee is entitled to recover the tax thereon where it was paid under protest, as incident to foreclosure. Metropolitan Trust Co. as trustee, etc., v. State Board of Tax Commissioners (not yet officially reported).

FOREIGN CORPORATIONS MAY BE REQUIRED IN SUPPLEMENTARY PROCEEDINGS to appear and be examined concerning their capital invested in the state, where personal taxes against them have been returned as uncollected. In re Bruere (Independent Lamp Co.). In re Bruere (General Equipment Co.). In re Bruere (Coca Cola Co.), Supreme Court, New York County, opinion by Justice Bijur, N. Y. Law Journal May 9, 1916.

OHIO.

THE ANNUAL FRANCHISE TAX MAY NOT BE EXACTED FROM AN INSOLVENT DOMESTIC CORPORATION which has been adjudged bankrupt or has been placed in the hands of a receiver. The paramount purpose of the statute (Sec. 5495 et seq. Ohio General Code) is to tax corporations which are in control of their property and engaged in the exercise of their franchises. State of Ohio v. Harris, 229 Fed. 892.

OKLAHOMA.

THE GROSS REVENUE TAX intended to be imposed upon public service corporations and upon persons, firms, corporations, or associations engaged in the production of coal and other minerals and of petroleum and natural gas (Session Laws 1910, c. 44) was declared unconstitutional with respect to foreign corporations in Meyer, Auditor v. Wells Fargo & Co., 223 U. S. 298. It is also unconstitutional with respect to domestic corporations, since the law must be construed as a whole. Comanche Light & Power Co. v. Nix 156 Pac. 293.

PENNSYLVANIA.

THE TIME FOR FILING REPORTS OF CORPORATIONS may not be extended by the Auditor General beyond thirty days after the last day of February. The Act of June 2, 1915, P. L. 730, further amending the 20th Section of the Revenue Act of June 7, 1879, requires the reports of corporations to be made "annually on or before the last day of February, for the calendar year next preceding" and provides that: "The Auditor General may, upon proper cause shown, extend the time of filing returns for a period not exceeding thirty days." This shows a legislative intention that there should be no further extension. Opinion of Attorney General, 2 Dept. Rep. 873.

THE IMPOSITION OF A PENALTY BY THE AUDITOR GENERAL for non-payment of taxes by trust companies within forty days of the date of settlement under the Act of June 13, 1907, Pl. 640, was held, by an opinion of the Auditor General's Department, to be mandatory and, further, that under this Act, the Auditor General has no discretion to remit, reduce or waive the penalty. This opinion was written by the Attorney General's Department to the Auditor General in view of a case where the Treasurer of a Trust Company, through an oversight, had failed to pay taxes until January 28, 1916, the settlement having been made on July 19th previously and notice thereof given the Company on July 29th.

WISCONSIN.

THE STATE INCOME TAX is imposed only upon such part of a nonresident's income as is derived from sources within the jurisdiction of the state (St. 1911, S. 1087 m, subd. 3). A non-resident trustee appointed by and rendering annual accounts to a court within the state is therefore not taxable with respect to income derived from securities removed by him to the state of his residence. Bayfield County v. Pishon, 156 N. W. 463.

UNFAIR METHODS OF COMPETITION.

CIRCUIT COURT OF APPEALS, SIXTH CIRCUIT.

"KNABE" PIANOS. William Knabe began the manufacture of pianos in 1837. Upon his death his sons Ernest and William II and his son-in-law, Keidel, succeeded to the business. It was subsequently incorporated as "Wm. Knabe & Co. Manufacturing Company of Baltimore City" and thereafter consolidated with Chickering & Sons, and the Foster-Armstrong Co. into the American Piano Company. In 1910 Ernest Knabe, Jr., and William Knabe III who had been actively connected with the American Piano Company, retired from that Company and in 1911 organized an Ohio corporation known as the "Knabe Bros. Company." In an action brought by the American Piano Co. for infringement of trademark and for unfair competition, it is held that Knabe Bros. Co. should inscribe upon the fall-board of their pianos the words "Made by Knabe Bros. Co., Cincinnati," and a warning notice on the check-block in substantially the following form:

"NOTICE."

"This piano is not made by Wm. Knabe & Co. of Baltimore, who were the original manufacturers of the Knabe pianos, nor by the Wm. Knabe & Co., Mfg. Co. nor by the American Piano Co., successors of Wm. Knabe & Co. The Knabe Bros. Co. (maker of this piano) is not the successor of and has no connection with either of those three companies."

"The managing officers of the Knabe Bros. Co. are Ernest J. Knabe, Jr., and William Knabe III, grandsons of the original Wm. Knabe, and formerly officers of the Wm. Knabe & Co. Mfg. Co. of Baltimore." Knabe Bros. Co. v. American Piano Co., 229 Fed. 23.

UNITED STATES DISTRICT COURT (E. D. ARKANSAS, W. D.).

SYSTEM OF LICENSING AND INSPECTION WITH RESPECT TO TRADE MARKS AND TRADE-NAMES. Coco-Cola is made up in two forms—one to be used at soda fountains and the other to be used in bottling. The latter kind is sold only to bottlers licensed by the Coco-Cola Company. To insure conformance of bottled coco-cola, with its guarantee of wholesomeness, uniformity, etc., the company maintains an elaborate system of inspection of licensed bottlers. This system of licensing and inspection does not violate either the Sherman or the Clayton Act. The Company's requirements are reasonable, and the possibility of adulteraiton, and the hardship of enlarging its system of inspection indefinitely render it unnecessary for it to sell to every intending purchaser. Consequently the Coco-Cola Co. is entitled to an injunction against a manufacturer which purchased the syrup intended to be used at soda fountains and employed it in a bottled preparation. Such acts constitute unfair competition. Coco-Cola Co. v. J. G. Butler & Sons, 229 Fed. 224.

TRUSTS AND MONOPOLIES.

UNITED STATES DISTRICT COURT (MARYLAND).

THE AMERICAN CAN COMPANY is condemned with respect to its early methods, but because of its present beneficial policies and practice, it is not dissolved under the Sherman Law. The Court, however, retains the government's bill of complaint and reserves the right to decree dissolution "whenever, if ever, it shall be made to appear to the court that the size and power of the defendant, brought about as they originally were, are being used to the injury of the public, or whenever such size and power, without being intentionally so used, have given to the defendant a dominance and control over the industry, or some portion of it, so great as to make dissolution or other restraining decree of the court expedient." United States v. American Can Co. 230 Fed. 859.

UNITED STATES SUPREME COURT.

After handing down several important decisions, the Supreme Court on May 22, declared a recess until Monday, June 5, and announced that the court would adjourn for the term on June 12, unless another session is then found necessary. They affirmed the decision of the district court of Wisconsin in No. 253 and No. 554, John S. Donald, Secretary of State v. The Philadelphia & Reading Coal & Iron Company and James A. Frear, as Secretary of State v. The Western Union Telegraph

Co., See Corporation Journal, page 188). The proceeding under the pure food law against coco-cola (No. 562 United States v. Forty Barrels of Coco-Cola, etc.) was sent back for a new trial.

On June 5 and June 12 a number of other cases that have been argued will probably be decided. Among these are No. 314 and No. 315 mentioned in the Corporation Journal at pages 71 to 72.

OUR SUPREME COURT SERVICE will report these and many other cases of importance to its subscribers as soon as possible after the opinions are handed down. The opinions are sent in pamphlet form to subscribers.

The decisions of the lower courts in all cases on the Supreme Court Docket are digested by this department of our Company and kept on file in each of its officee for inspection by subscribers to the service.

Information regarding this service may be obtained from our nearest office.

INCOME TAX.

RULINGS AND REGULATIONS.

Since our last issue (See Corporation Journal p. 177), the Treasury Department has issued instructions to Collectors and to Assistant Treasurers of the United States, Federal Reserve Banks and Active National-Bank Depositaries relative to depositing collections so that all collections within the fiscal year may be deposited within that year. (p. 395).

(NOTE: The page references are to our Income Tax Service, 1916, in which these rulings are printed in full.)

WAR TAX.

A person or firm holding himself or itself out to the public as engaged in the occupation of customhouse broker, either by maintaining an office or sending out literature, advertising matter, etc., is required to pay special taxes (p. 341).

Bonds given in connection with the seizure of goods for violation of the internal revenue laws in order to get the case into court are exempt from stamp tax (p. 342).

Declarations of intention to become citizens and certificates of naturalization are not taxable (p. 343).

Instructions modifying a previous ruling (p. 279) have been issued to collectors, assistant treasurers of the United States, Federal Reserve Banks and Active National Bank Depositaries with reference to deposit of collections within the fiscal year (p. 344).

The U. S. District Court for the Southern District of New York directed a verdict for the recovery of special taxes paid by a Trust Company whose capital and surplus were not employed in banking. (p. 345).

(NOTE: The page references are to our War Tax Service, in which the rulings and regulations are printed in full.)

FEDERAL RESERVE.

RULINGS AND REGULATIONS.

General terms of a check collection and clearing system for member banks is contained in a circular dated May 1 (p. 496).

Informal rulings have been issued relative to interlocking directorates (p. 499) to bonds securing circulating notes (p. 499) to the extent of rediscounts of member banks (p. 500), and relative to acceptances not subject to stamp tax (p. 506).

The Law Department has published an opinion relative to the negotiability of bills of exchange, which contain a waiver of demand, notice and protest, which waive homestead exemption rights and which provide for the costs of collection and attorney's fees (p. 500); an opinion on the right of a national bank to discount or purchase a note secured by improved and unencumbered farm land, which is payable more than five years after the date such note was made (p. 501); an opinion with reference to a draft or bill which exempts the drawer from liability (p. 502) and an opinion regarding rediscount of the assignment of an open account (p. 502).

Detailed figures of the earnings and expenses of Federal Reserve Banks for the quarter ending March 31, 1916, have been published (pp. 503–506).

An amendment to the Federal Anti-Trust Act with reference to interlocking directorates was enacted by the 64th Congress and went into effect May 15, 1916 (p. 507).

(NOTE: The page references are to our Federal Reserve Act Service, which reports in full all rulings, regulations and opinions of the Federal Reserve Board.)

TRADE COMMISSION.

The Federal Anti-Trust Act, approved October 15, 1914, has been amended by an act of Congress, in effect May 15, 1916, with respect to interlocking directors, etc., of Federal Reserve Banks (p. 70).

(NOTE: The above page reference is to our Federal Trade Commission Service in which the amendment is printed in full).

STATE LEGISLATURES.

During the legislative sessions recently adjourned many important laws of interest to lawyers and officers of corporations were enacted. We list below a few of such laws, copies of which may be purchased from our Legislative Department for the amount set forth after each title.

KENTUCKY.

Prevention of pools, trusts, conspiracies and combinations in restraint of trade (75 cents).

Enlarging powers of Railroad Commission with reference to Express, Steamboat Telegraph and Telephone Companies ($1.50).

Workmen's Compensation Law (50 cents).

MARYLAND.

Revision of corporation laws ($2.00).

MASSACHUSETTS.

Income Tax law (50 cents).
Inheritance Tax law (50 cents).

MISSISSIPPI.

Regulation of sale and Purchase of stocks, bonds, etc. (Blue Sky Law) (65 cents).
License fees of Foreign Corporations (no charge).

NEW JERSEY.

Transfer of shares of stock in corporations (50 cents).
Regulation of operation of "Jitney" busses (50 cents).

NEW YORK.

Secured debts tax law (50 cents).
Inspection of stock books of corporations (no charge).
Amendment to inheritance tax law (50 cents).
An Act to amend the tax law generally (50 cents).

RHODE ISLAND.

Inheritance Tax law ($1.50).
Corporation Franchise Tax law (50 cents).

SOUTH CAROLINA.

Anti-compact law (Fire Insurance Companies) (50 cents).

VIRGINIA.

Regulation of sale of stocks and bonds (Blue Sky Law (50 cents).
An Act relating to the situs for taxation of intangible property owned by corporations which do no business in the State (no charge).

Our Legislative Department is also prepared to report on pending legislation and to furnish copies of all the new laws on any particular subject desired. An estimate of the total cost will be given upon information as to the subject and the States to be covered.

THE CORPORATION JOURNAL should be kept in a binder for convenient referecne. We furnish a substantial binder for $1.50.

AMERICAN CORPORATIONS IN CANADA.

Corporations of foreign countries are not permitted to do business in the Canadian provinces without first having complied with certain statutory requirements and obtained a license from the provincial authorities.

Corporations of one province similarly must obtain authority to do business in any other province.

Corporations organized under the laws of the Dominion have the right to carry on business in any province without further authority or license from the province. This question has been definitely decided by Canada's highest court of appeal in the cases mentioned on pages 186 and 187 of this Journal.

Attorneys for American corporations whose clients do business in Canada are invited to make use of our Bureau of Information. We have gathered information regarding the several methods of carrying on business in Canada and the advantages, disadvantages and expense of each method.

The Corporation Trust Company assists attorneys in qualifying foreign corporations and in organizing domestic corporations in every province by furnishing forms, precedents and information as to the practical effect of statutory provisions.

An examination of our method of assisting lawyers is well worth the time of any attorney. Information is cheerfully given at any of our offices.